mpt IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8109 of 2007

Gatkar Ranjeet Ramesh .. Petitioner

versus

State of Maharshtra & ors. .. Respondents

...

Mr.Vivek Salunke for the petitioner.

Mrs.M.P. Thakur, AGP for respondent no.2.

CORAM : S.B. MHASE AND

D.G.KARNIK, JJ

DATED : 31st October 2007

P.C.:

1. By this petition, the petitioner challenges clause no.4.2.1. of the advertisement dated 8th August 2007 issued by the respondent no.1. Maharashtra Public Service Commission (for short "MPSC") for selection to the post of Assistant Conservator of Forest. The petitioner has also prayed for a direction directing the MPSC to accept the candidature of the petitioner for the post of Assistant Conservator of Forest, in pursuance of the advertisement dated 8th August 2007.

2. By an advertisement dated 8th August 2007, MPSC invited applications from eligible persons for the examination to be held for appointment to the post of Assistant Conservator of Forest. Clause no.4 of the advertisement contains the criteria of eligibility of a person to appear for the examination. Clause no.4.1 prescribes the age limit, clause no.4.2 presribes the educational qualifications, clause no.4.3 prescribes physical requirements and clause no.4.4 prescribes the physical qualifications for invalid persons. Clause no.4.2.1. says that the candidate must have obtained a degree of a recognised university in Botany, Chemistry, Forestry, Geology, Mathematics, Physics, Statistics, Zoology or Gardening. In the alternative, candidate must be a graduate in the agriculture or engineering. The petitioner possesss a bachelor degree in pharmacy but does not possess a bachelor degree in any of the subjects mentioned above. The petitioner contends contains that the requriement put by the MPSC of possessing a degree in any of the subjects mentioned above and omitting the pharmacy therefrom is illegal.

3. The advertisement for holding an examination for the posts of Assistant Conservator of Forests was issued by MPSC at the instance of the prospective

employer viz. State of Maharashtra. It is for the employer to prescribe what are the minimum qualifications that are needed for recruitment to a post. It is not shown that there is any statutory provision of any Act, rule or regulation prescribing the educational qualifications. In the absence of any statutory provision, it is open to the employer to determine as per its own policy what should be the minimum educational qualification for a post. Prescription of an educational qualification for a post is a policy decision which in the absence of any statutory provision cannot be subject matter of a judicial review. In the circumstancs, there is no merit in the petition which is hereby rejected.

(D.G. KARNIK, J) (S.B. MHASE, J)